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No. 85-1241

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

LUBBOCK COUNTY, TEXAS, et al., *Petitioners*

vs.

PAULETTE STEWART, *Respondent*

LUBBOCK COUNTY, TEXAS, et al., *Petitioners*

vs.

BARBARA WILKERSON, *Respondent*

On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit

Respondents' Brief in Opposition

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QUESTIONS PRESENTED

1.

Whether Petitioners, who neither argued nor briefed the injunction questions below, preserved them for review in this Court.

2.

Whether Petitioners, who do not challenge here the holdings below that their strip search policy is unconstitutional, may complain now for the first time that its enforcement was improperly enjoined.

3.

Whether Petitioners, who wholly failed to respond to Respondents' motion for attorney fees in District Court, preserved the issue of Respondents' default judgment for attorney fees for review in this Court.

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On Petition for Writ of Certiorari
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Respondents' Brief in Opposition

OPINIONS BELOW

The decision of the United States Court of Appeals for the Fifth Circuit in this case is reported at 767 F.2d 153. Although Petitioner Lubbock County's Appendices include that opinion, as well as certain judgments, memorandums and orders of the District Court, Lubbock County failed to append the temporary injunction which is the very subject of its Petition to this Court. That injunction was made permanent and incorporated into both judgments below (Petition App., p. 22-23) and

(Petition App., p. 19-29), and it is included here as Appendix A.

ADDITIONAL PROVISIONS WHICH THE CASE INVOLVES

Local Rule 5.1 (e) of the United States District Court for the Northern District of Texas provides, in pertinent part:

> (e) *Time for Response.* In a civil action, any response to a motion shall be filed within 20 days from the date the motion was filed. * * * Motions shall be deemed ready for disposition at the end of these periods, unless the Presiding Judge grants an extension of time for filing a response.

STATEMENT OF THE CASE

In two separate civil rights actions, the District Court held Lubbock County's policy of strip searching all pre-booking detainees in the Lubbock County Jail, including those charged with Class C misdemeanors punishable by fine only, to be violative of the Fourth Amendment to the United States Constitution. (Petition App., p. A-4-6). The Court awarded damages and enjoined enforcement of the policy, with certain exceptions not applicable here, before a detainee is arraigned or has an opportunity to make bond. In a separate proceeding, when Lubbock County failed to make any response to Stewart's attorneys' application for attorney fees, the District Court awarded attorney fees in Stewart's case in the amount of $17,027.50. (Petition App., p. A-27).

Lubbock County merely appealed the finding of unconstitutionality and the award of attorney fees, and a panel

of the Court of Appeals for the Fifth Circuit affirmed. Only on Petition for Rehearing did the County complain of the injunctive relief that was granted. Its Petition for Rehearing was summarily overruled, and the mandate issued January 17, 1986.

Lubbock County's strip search policy is set forth *verbatim* in Appendix B. The County is simply wrong when it represents to this Court that "the strip search policy in the case at bar does not authorize or permit body cavity searches and involves only a visual strip search." (Petition, p. 3, 6). While the policy does not permit any "probing," body cavities including the nose, ears, mouth and rectum are to be visually inspected and a hand is to be "run . . . into groin area to search for contraband." In addition to the groin search, the policy requires physical contact with the prisoner's hair, arms, armpits, soles of feet, and between the prisoner's fingers and toes, as well as under bandages and inside false teeth and artificial limbs, and the prisoner is required "to bend over and spread buttocks" for the rectal inspection. (Appendix B, p. A-9 - A-10).

The District Court's injunction (Appendix A) only prohibits Lubbock County from strip searching individual arrestees and placing them in the general jail population before bond has been set by a magistrate and the individual arrestees have had an opportunity (as defined in the injunction) to make a bond.[1] (Appendix A, p. A-4). It does

[1]As the District Court found (*see*, Appendix A), the Lubbock County Jail consists of two buildings which are separated by a "sally port." The west building houses the booking rooms, property rooms, two dressing rooms (for male and female), and 17 holding cells. Ten of these are for special purposes such as for violent prisoners and detoxification. The remaining seven can accommodate as many as 56 prisoners. This building was designed to

not prohibit (and indeed it specifically allows) the Sheriff or deputies to conduct a thorough pat-down search for weapons and contraband, to remove the contents of the pockets, footwear and belts, to employ metal detector searches and canine searches, and to conduct strip searches "if, based on the less intrusive methods of search listed above, there is reason to believe that an individual detainee is concealing a weapon or contraband." (Appendix A, p. A-5 - A-6).

At the Sheriff's request, the permanent injunction was amended to permit detained individuals to shower in complete privacy to control lice, and when the west building population exceeded 45 detainees, to permit the Sheriff to strip search the excess and place them in the general jail population in the east building. (Petition App., p. A-25). Plaintiffs have never contended that a strip search preceding confinement in the east building is unconstitutional, and that practice was not affected by the injunctive relief granted by the District Court.

SUMMARY OF ARGUMENT

As a rule, an issue raised for the first time in a petition for certiorari will not be considered. Lubbock County's sole point on appeal involved the constitutionality of the strip search policy; its argument that its enforcement

hold arrestees on a temporary basis until they could make bond or otherwise secure release. (Appendix A, p. A-3). The strip searches occurred in the west building before bond was set and before the arrestees had an opportunity to make bond.

The east building, which contains the kitchen facility, library, exercise rooms, a laundry and infirmary, houses the general inmate population. Plaintiffs do not challenge the constitutionality of strip searches conducted when a detainee is unable to secure release and is transferred to the general population in the east building. (Appendix A, p. A-3).

should not have been enjoined was not timely raised, and thus it was waived.

The strip search policy was violative of Plaintiffs' Fourth Amendment rights. This Court may presume that Lubbock County will give full recognition to the holdings of the courts below, and the propriety of the injunction should be of no concern to this Court.

Lubbock County did not challenge the claim of Plaintiff Stewart's attorneys for attorney fees under 42 U.S.C. § 1988, although the County had adequate opportunity to do so. Having waived its right to an evidentiary hearing in District Court, Lubbock County has waived its right to challenge the attorney fee award on petition for certiorari.

ARGUMENT

1. Petitioners Did Not Preserve the Injunction Questions for Certiorari Review

Aside from the attorney fee issue, *infra*, the sole and only question presented to the court of appeals below was whether

> [t]he [District] Court erred in ruling, as a matter of law, that the strip search policy of the Lubbock County Sheriff's Department was unconstitutional.

(Lubbock County's Brief in the Court of Appeals, p. 2). The injunctions were never mentioned in the course of Lubbock County's argument (*id.*, p. 8-10), and the court below observed that since Lubbock County sought no relief from the permanent injunction, that issue was not

before the court on appeal. (Petitioners' App., p. A-5, n.3)

A claim not raised below must fail. *Town of Hallie v. City of Eau Claire*, — U.S. —, 105 S.Ct. 1713, 1718, n. 5, 85 L.Ed.2d 24, 31 n. 5 (1985). Likewise, failure to raise an issue in a timely manner precludes consideration by this Court, *Hoover v. Ronwin*, — U.S. —, 104 S.Ct. 1989, 1998, n. 25, 80 L.Ed.2d 590, 603, n. 25 (1984), *reh. denied*, — U.S. —, 104 S.Ct. 3564, 82 L.Ed.2d 865 (1984), and issues raised for the first time in the petition for certiorari should not be considered. *United States v. Ortiz*, 422 U.S. 891, 898 (1975).

In obvious response to District Judge Hinojosa's dissent,[2] which argued that the issue of Plaintiffs' standing to seek injunctive relief should have been raised *sua sponte* (Petitioner's App., p. A-11-12), the majority noted that Lubbock County sought no relief from the permanent injunction, so it was not before the court. (Petition App. p. A-5, n.3). On Petition for Rehearing, Lubbock County cast its lot with Judge Hinojosa, abandoning the Fourth Amendment constitutional question and attempting to recast its case in terms of error in granting injunctive relief.

Lubbock County's change of position came too late. Reference in the decision to matters not before the court of appeals does not present the issue so it may be raised in the petition for certiorari. *Heckler v. Campbell*, 461 U.S. 458, 468 and n. 12 (1983). When the Petition for Rehearing was filed, the case had been decided. *San*

[2]Judge Hinojosa, of the Southern District of Texas, sat by designation. (Petition App., p. A-3).

Pedro and Cañon del Agua Company v. United States, 146 U.S. 120, 137 (1892). A petition for rehearing in the court of appeals presents no question for review in this Court, *id.*, and matters raised then for the first time will not be considered on petition for certiorari. *Hoover v. Ronwin*, *supra*.[3] Lubbock County failed to raise the issue of injunctive relief below, and it may not raise it now, for the first time, in its Petition for Certiorari. *Id.*; *United States v. Ortiz*, *supra*. The Petition for Certiorari should be denied.

2. Petitioners May Not Complain That Their Unconstitutional Strip Search Policy Was Improperly Enjoined

The Court of Appeals recognized the distinction, as Lubbock County does not, between an unreasonable strip search of a minor offender, detained only briefly while awaiting bond, and a reasonable strip search of pre-trial detainees who authorities have "reasonable suspicion" to believe have weapons or contraband concealed on the persons, or who are entering the general jail population after failing to make bond. (Petition App., p. A-7).[4] The lower court was persuaded by the Seventh Cir-

[3]The matter of what questions may be taken up and resolved for the first time on appeal is one left primarily to the discretion of the courts of appeals, to be exercised on the facts of individual cases. *Singleton v. Wulff*, 428 U.S. 106, 121 (1976). Here, the lower court, summarily overruling the Petition for Rehearing, rejected Lubbock County's untimely attempt to raise the question of injunctive relief for the first time at that late date.

[4]The cases cited by Lubbock County are inapposite. Indeed, *Thorne v. Jones* 765 F.2d 1270 (5th cir. 1985), while sustaining strip searches of convicted prisoners, held that a strip search of prison visitors without reasonable suspicion violated the Fourth Amendment. *Arruda v. Fair*, 710 F.2d 886 (1st Cir. 1983), is also a prison strip search case. The strip search in *United States v. Ruigomez*, 702 F.2d 61 (5th Cir. 1983), followed a valid arrest on a weapons charge, and there was probable cause , not just reasonable suspicion, to justify the strip search. The same is true in *United States v. Klein*, 522 F.2d 296 (1st Cir. 1975), and in both cases the issue was

cuit Court of Appeals' construction of *Bell v. Wolfish*, 441 U.S. 520 (1979) in *Mary Beth G. v. City of Chicago*, 723 F.2d 1263 (7th Cir. 1983). That court construed the balancing test in *Wolfish*[5] to preclude, in circumstances very similar to those in Lubbock County's jail (Petition App., p. A-8), strip searches of "minor offenders who were not inherently dangerous and who were being detained only briefly while awaiting bond." *Mary Beth G. v. City of Chicago, supra*, at 1272.

In balancing the personal indignity of the strip searches[6] against the governmental interest in conducting them, the Seventh Circuit court applied a reasonableness standard requiring "at a minimum, that the facts upon which an intrusion is based be capable of mea-

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raised by motion to suppress evidence rather than in a 42 U.S.C. § 1983 action. No strip search was involved in *United States v. Sandler*, 644 F.2d 1163 (5th Cir. 1981), where the only issue was "whether a 'pat-down' or other less intrusive border search must, like a strip search, rest on reasonable suspicion." *Id.*, at 1167.

[5]"The test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application. In each case it requires a balancing of the need for the particular search against the invasion of personal rights that the search entails. Courts must consider the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted." *Bell v. Wolfish, supra*, at 559.

[6]A strip search involving only a visual inspection of the anal and genital areas has been described as "demeaning, dehumanizing, undignified, humiliating, terrifying, unpleasant, embarrassing, repulsive, signifying degradation and submission." *Mary Beth G. v. City of Chicago, supra, quoting from Tinetti v. Wittke*, 479 F.Supp. 486, 491 (E.D. Wis. 1979), *aff'd*, 620 F.2d 160 (7th Cir. 1980).

In contrast to the invasive nature of the strip search here, the inmate in *Wolfish* was not touched at any time during the visual search procedure, 441 U.S., at 558, n. 39. In *Thorne*, "the naked body of the subject is very thoroughly inspected, but not touched, by prison personnel of the same sex." 765 F.2d, at 1271, n. 1. The detainees in *Mary Beth G.* were not even entirely undressed. 723 F.2d, at 1267. There is no indication in *Ruigomez*, despite the search of the defendant's clothing after removal, that the strip search was more than visual.

surement against 'an objective standard,' whether this be probable cause or a less stringent test." *Id.*, at 1273; *Delaware v. Prouse*, 440 U.S. 648, 654 (1979). The court concluded that the strip searches of minor offenders awaiting release on bond was unreasonable.

The Court must bear in mind that Lubbock County's jailers may still pat-down any detainee and utilize metal detectors and canines (Appendix A, p. A-5), and they may conduct a strip search for weapons or contraband if these less intrusive methods show that reasonable suspicion exists. Likewise, jailers are still permitted to strip search any prisoner entering the general jail population in the east building. *Id.*, p. A-6. All that is enjoined is a blanket strip search, prior to arraignment and an opportunity to make bond, of all detainees, including minor offenders, when no reasonable suspicion exists that they might possess weapons or contraband. (Petition App., p. A-7).

Both the District Court and the Court of Appeals, applying *Wolfish's* balancing test, found Lubbock County's strip search policy unreasonable and in violation of the Fourth Amendment as applied to these Plaintiffs. Those decisions being unchallenged here, this Court may assume that Lubbock County will give full recognition to them. The only issue presented, that of injunctive relief, should thus be of no moment to this Court. *Cf. Doe v. Bolton*, 410 U.S. 179, 201 (1973), where this Court, on the same assumption, declined to decide whether the denial of injunctive relief was proper after holding unconstitutional the policies sought to be enjoined. The Petition for Certiorari should be denied.

3. Petitioners Did Not Preserve the Award of Attorney Fees for Certiorari Review

This Court has already addressed and decided adversely to Lubbock County its contention that the District Court abused its discretion in refusing to set aside the default judgment for attorney fees in Stewart's case.[7] In *Blum v. Stenson*, 465 U.S. 886 (1984), cited by both courts below (but not mentioned by Lubbock County in its Petition), this Court said that the defendant's failure to submit any evidence challenging the accuracy and reasonableness of plaintiff's counsel claim for 42 U.S.C. § 1988 attorney fees, constituted a waiver of his right to an evidentiary hearing in District Court.[8] Having waived that right, the defendant (as petitioner in this Court) waived his right to challenge the District Court's award. *Id.*, at 892, n. 5.

Blum v. Stenson is controlling. Lubbock County, by its failure to respond, waived its right to an evidentiary hearing in District Court, and thus it waived its right to challenge the District Court's award here. *Hensley v.*

[7]Lubbock County makes no claim that it was without notice of Plaintiff Stewart's application for attorney fees. Under Local Rule 5.1 (e), Lubbock County had 20 days from the date of filing to respond. In this case, as is the practice in the Lubbock Division of the Northern District of Texas, the District Court ordered the County to respond within 20 days of the date of the order (Petition App., p. A-9, 27), which actually served to give the County an additional three days to respond. Whether it did so intentionally or by design, Lubbock County admits it failed to file a response. (Petition, p. 11).

[8]The County also implies that since Stewart was awarded only nominal damages, she is not the prevailing party within the meaning of § 1988. (Petition, p. 12). That contention also has been decided adversely to the County. Plaintiffs may be considered "prevailing parties" for attorney fee purposes if they succeed on any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit. *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). The District Court held (and the Court of Appeals affirmed), on the most significant issue in litigation, that the strip search violated Stewart's Fourth Amendment rights.

Eckerhart, 461 U.S. 424 (1983), upon which the County relies, does not come into play. *Blum v. Stenson*, *supra*, n. 5. Lubbock County's argument is frivolous, and its Petition for Certiorari should be denied.

CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

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February, 1986

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February, 1986, three copies of Respondents' Brief in Opposition were mailed, postage prepaid, to Cecil Kuhne, Esq., P.O. Box 1499, Lubbock, Texas 79408, Counsel for the Petitioners. I further certify that all parties required to be served have been served.

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APPENDIX

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

Civil Action No. CA-5-83-26

BARBARA WILKERSON, on behalf of herself and all others similarly situated, Plaintiffs,

v.

LUBBOCK COUNTY, TEXAS; and DELWIN LEE (SONNY) KEESEE, Individually and in his capacity as Sheriff of Lubbock County, Texas; LANNY RICE, JOHN GROSS, TAMMY DOE and JAMES DOE, Lubbock County Sheriff's Deputies, Individually and in their official capacities, Defendants.

TEMPORARY INJUNCTION

Plaintiffs, by their complaint, have sought a temporary restraining order, a temporary injunction, and a permanent injunction requiring the Sheriff of Lubbock County, Texas and his deputies to comply with constitutional standards in conducting "strip searches" in the Lubbock County Jail.

Hearings on the temporary restraining order were held on the 8th and 10th days of March, 1983, and a temporary restraining order was issued and is attached hereto as Appendix I. After due notice, all parties and attorneys appeared before the court on the 21st day of

March, 1983, and the court heard the evidence and argument of counsel for a temporary injunction.

After hearing and considering the pleadings, the briefs of the parties, as well as the evidence and oral argument from the parties and attorneys in this case, the court finds and concludes as follows:

I

A strip search of an individual arrestee by law enforcement officers, including the Sheriff of Lubbock County and the deputies, is an invasion of a person's right to privacy.

II

That invasion of a right to privacy by persons acting under color of law, such as the sheriff and his deputies, is a deprivation of a constitutional right giving rise to a cause of action pursuant to 42 U.S.C. § 1983.

III

However, not every strip search of an individual arrestee constitutes a deprivation of that person's constitutional rights. A strip search may be authorized in order to prevent the introduction of contraband, weapons, or disease into the general jail population. This right to strip search for these purposes is for the protection of the prisoner himself and other prisoners who might be harmed or injured by the introduction of contraband, weapons, or disease, and is also for the protection of the public at large by preventing escapes and providing for proper jail security.

IV

In this case, it appears that the Lubbock County Jail consists of two buildings which are separated by a "sally port." The western-most building houses the booking rooms, property rooms, two dressing rooms, for male and female, and seventeen holding cells, six of which are single-cell units, two of which are for violent prisoners and two of which are used for detoxification purposes. The remaining seven cells can accommodate as many as fifty-six prisoners. The architect for the county who designed and supervised the construction of this jail testified that these holding cells were designed to hold arrestees on a temporary basis until they could make a bond or secure their release otherwise.

The eastern portion of the jail consists of a kitchen facility, library, exercise rooms, a laundry, infirmary, and cells to imprison arrestees who are unable to make bond. Trusties who have access to both buildings are strip-searched when they reenter the general jail population area if they have come in contact with arrestees who have not been strip-searched.

V

It is the purpose of this order to precisely set forth standards for conducting strip-searches individual arrestees, and the court is of the opinion that the following order will meet constitutional standards:

Therefore, the Sheriff of Lubbock County, Texas, his deputies, agents, and employees, and all other defendants herein are hereby temporarily enjoined from strip-searching any individual arrestee unless the following

procedures are used. This injunction shall remain in force from the date and time hereof until this case has been determined and decided by a final judgment.

The procedures to be followed are:

A. The defendants in this case, their agents, servants, and employees, are permitted to strip-search any individual arrestee when that individual is placed in the eastern-most building of the jail where the general jail population is held and incarcerated. In order to make certain that there is no denial of equal protection of the laws, each such individual arrestee shall be subject to such strip-search immediately prior to being placed in the general jail population.

B. The defendants herein are enjoined and prohibited from placing any individual arrestee in the eastern-most building of the jail and in the general jail population unless the following procedures are complied with:

1. The individual arrestee must be taken before a justice of the peace or other judicial officer of the State of Texas for the purpose of having a bond set that would entitle the arrestee to release upon the proper execution and presentment of said bond.

2. Further, such arrestee shall not be confined in custody in the eastern-most portion of the general jail population until after such individual has been given the opportunity to make a bond. If an individual arrestee fails to make bond by 3:00 P.M. of the day following his appearance before a judicial officer (or the following Monday if the arrest occurs after Saturday noon or on Sunday), such person may be placed in the general jail

population in the eastern building and may be strip-searched before transfer to the general jail population. This will afford the individual an opportunity to make the required bond.

C. Nothing herein shall prevent the defendants from releasing a prisoner at an earlier period than that provided for above, if a proper bond is made or if in the discretion of the sheriff or his deputies release would be proper under the circumstances.

In this connection, the court finds that the handling of the individual arrestees under the temporary restraining order concerning misdemeanors where the punishment is by fine only and ordinary traffic violations is proper, but if there is a conflict between the manner of handling these cases at present and this order, this order shall prevail.

D. The above injunction will not prohibit the sheriff or his deputies, and the other defendants herein from:

(1) Conducting a thorough pat-down search of the arrestee for weapons and contraband upon his entering the pre-booking area;

(2) Removing from the possession of the arrestee the contents of his pockets and his footwear and belt;

(3) Employing metal detector searches in the pre-booking area, within the security trap, or within the holding area;

(4) Employing canines trained to detect concealed narcotics; and

(5) Conducting strip searches if, based on the less intrusive methods of search listed above, there is reason to believe that an individual detainee is concealing a weapon or contraband.

E. In the event that the above procedures require the sheriff and his deputies to hold individual arrestees in the west building of the jail for the above required periods of time, and as a result thereof the number of persons being held in the west building exceeds sixty-five at any one time, the sheriff may, in order to avoid overcrowding, strip search a sufficient number of individual arrestees and place them in the eastern-most building with the general jail population. The individuals to be strip-searched under these conditions shall commence with the one who has been in confinement for the longest period of time. The maximum of sixty-five arrestees to be held in the western wing shall include any prisoners in the detoxification cells, the individual arrestees in the holding area, and the violent or uncontrollable prisoners who might be held in two of the holding cells in the area, plus those who are held in the administrative or "pre-booking" area prior to transfer to any of the holding cells, and including those in the holding cells.

F. It is the finding of this court that the above order will provide proper security and will not entail a material additional expense as deputies will be relieved in many instances of conducting strip searches. It is not the intention of this order to provide detail by detail the manner that the sheriff and his deputies should maintain control and security over the jail, but only to provide a maximum guideline which would prohibit or permit strip searches of individual arrestees prior to the time that they are

mixed with the general jail population in the eastern-most part of the jail.

This order is entered upon the court's determination that irreparable harm and injury will result to individuals if the order were not entered and there is no adequate remedy at law to redress such injury.

It is so ordered.

The trial of the case on its merits will be scheduled in its regular place on the docket.

The United States Marshal will furnish a copy hereof to the attorney for each party and to the Sheriff of Lubbock County, Texas.

ENTERED this 22nd day of March, 1983 at 1:45 o'clock P.M.

/s/HALBERT O. WOODWARD
Chief Judge
Northern District of Texas

APPENDIX B

SHERIFF'S OFFICE
LUBBOCK COUNTY
LUBBOCK, TEXAS

STRIP SEARCH

217.09.016, T.C.J.S., *STRIP SEARCH*. Inmates should have a thorough strip search which should include a check for body vermin, cuts, bruises, needle scars, and other injuries. Only females shall conduct such a search of females. Only males shall conduct such a search of male inmates.

217.09.012, T.C.J.S., *SEARCH*. All inmates upon admission shall be thoroughly searched for weapons and any contraband.

All prisoners (male and female regardless of charges) entering the Lubbock County Jail for processing will be strip searched prior to booking procedures. To eliminate introduction of weapons and all contraband from entering into this facility the following procedure will be taken:

Immediately after clearing security 2 and 3 all inmates will be taken to respective dressing rooms (male or female). A strip search will be made by having the prisoner remove all clothing. The prisoner's clothing, exterior body, and to a limited extent body orifices are then carefully examined. Because the prisoner is required to be naked, this search should occur in a setting which will not unduly embarrass the prisoner or others. In order to be thorough, safe, and insure a minimum of embarrass-

ment, the following procedure for strip searches of male prisoners is provided.

1. Instruct the prisoner to remove clothing, place clothing on the floor, and move out of reach of the clothing.
2. Instruct the prisoner to stand erect, feet apart, with arms extended outward.
3. Run fingers through prisoners hair.
4. Shine light into ears, and look for contraband in and behind the prisoner's ears.
5. Shine light into nose and look for contraband.
6. Look for contraband in mouth. Have prisoner raise and lower tongue and pull lips away from gums to allow your inspection of area between mouth and gums.
7. Instruct prisoner to remove any artificial devices (such as false teeth and artificial limbs) and examine for hollowed-out parts.
8. Run both hands down from shoulder and armpit to wrist to look for contraband.
9. Run hand through armpit for contraband.
10. Spread prisoners fingers, turn hands over and look for contraband on hands and fingers.
11. Instruct prisoner to spread legs and run hand into groin area to search for contraband.
12. Instruct prisoner to raise each foot and spread toes; inspect for contraband on the soles of feet by running hand over soles to check for things hidden in skin.
13. Look for contraband between toes of feet and run fingers between each toe.
14. Instruct prisoner to bend over and spread buttocks; using a flashlight inspect for contraband in rectum.
15. Remove any bandages and look at injured area; crush

and discard bandage and replace if necessary (with medical assistance if needed).

16. Instruct the inmate to stand erect, feet apart, hands on top of head.
17. Move out of prisoner's reach to inspect clothing.
18. Crush collar, pockets, cuffs, linings, and seams of shirt.
19. Crush waistband, belt loops, fly, cuffs, and seams of pants.
20. Crush socks.
21. Pull on heel and sole of shoes to detect compartments for presence of contraband.
22. Run hand inside of shoes, determine if sole lining could conceal contraband or evidence.
23. Inspect belt for contraband by rolling it up.
24. Tug on belt buckle.
25. Inspect the belt seams by twisting belt to see if it separates.
26. Inspect hat for contraband by running hand around crown.
27. Inspect sweat band for contraband by pulling it away from the crown and looking at space between band and crown.
28. Inspect lining of hat for contraband by pulling it away from the crown and looking at space between lining and crown.
29. Inspect tie for contraband by pulling and crushing.
30. Check all other possessions of the inmate such as packages, letters, and books; open package and inspect by removing contents.
31. Open envelopes, remove and inspect contents.
32. Fan book pages upside down.

33. Instruct inmate to shower or dress as your department's policy indicates.

The same procedures as above applies to female prisoners conducted by female officers.

No probing of body cavities by jail personnel. This will be done by certified physicians or hospital.